Immunocept, LLC, et al v. Fulbright & Jaworski Doc. 12

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
JUL 13 2006
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY ______ DEPUTY CLERK

IMMUNOCEPT, LLC, PATRICE ANNE LEE, AND JAMES REESE MATSON,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	**CAUSE NO. A O5 CA 334 SS**
	§	
FULBRIGHT & JAWORSKI, LLP,	§	
	§	
Fulbright.	§	

PLAINTIFFS' OBJECTIONS TO BILL OF COSTS

Plaintiffs make the following objections to Defendant Fulbright & Jaworski, L.L.P.'s request to enter its bill of costs.

A. Introduction

1. Plaintiffs are Immunocept, L.L.C., Patrice Ann Lee, and James Reese Matson; Defendant is Fulbright & Jaworski, L.L.P.

2. Plaintiffs sued Defendant for legal malpractice.

3. On March 24, 2006, the court granted summary judgment in favor of Defendant, and the clerk entered judgment on that same date.

4. On June 6, 2006, Defendant filed its bill of costs, attached as Exhibit A.

B. Argument

5. The prevailing party is entitled to an award only of taxable costs incurred in litigating the dispute. *See* Fed. R. Civ. P. 54(d)(1).

6. The attached bill of costs submitted by Defendant includes expenses that are not allowed by law. Defendant has listed several categories of documents in its bill of costs that by title

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alone are categories generally acceptable under 28 U.S.C. 1920, such as "fees and disbursements for printing" and "fees for exemplification and copies of papers necessarily obtained for use in the case." *See* page 1 of Defendant's Bill of Costs, attached hereto as Exhibit A. However, Defendant has included many expenses within the categories that do not belong and are not allowable expenses, thereby attempting to disguise improper expenses in categories that are generally acceptable under the statute. The following are a list of some of the clearly improper expenses submitted by Defendant based on information in the Defendant's own invoices:

OBJECTIONS TO BILL OF COSTS

ITEM NO.	INVOICE NO.	DATE	COST	OBJECTIONS
14	18621	10/13/05	**$45.47**	Defendant's own notation at the bottom of this invoice states that these copies were made for a deposition preparation notebook. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
15	18636	10/13/05	**$612.87**	Defendant's own notation at the bottom of this invoice states that these copies were made for a deposition preparation notebook. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
16	18790	10/20/05	**$147.13**	This invoice includes several charges for Defendants own data-base including "building new project." "OCR Conversion," and "CD Master." These charges are not provided for in any of the categories set out in 28 U.S.C. 1920 and are unacceptable.
17	18806	10/20/05	**$167.31**	Defendant's own notation at the bottom of this invoice indicates that three copies of these documents were made. Defendants received a CD of these documents. Therefore, the three copies are extra copies. Extra copies for the

				convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
18	18997	10/27/05	**$137.26**	Defendant's own notation on the invoice states that this invoice includes summation loadfile. These charges are not provided for in any of the categories set out in 28 U.S.C. 1920 and are unacceptable.
19	19165	11/03/05	**$627.85**	Defendant's notation on the invoice indicates that these copies were for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
20	19219	11/04/05	**$228.79**	Defendant's notation on the invoice indicates that copies were made for deposition preparation and expert documents. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
21	19373	11/10/05	**$87.20**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
23	19733	11/29/05	**$390.50**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
25	19945	12/02/05	**$109.77**	Defendant's notation on the invoice indicates that these copies were made for an expert witness. Extra copies for the convenience of counsel are

				taxed as costs. *Haraco, Inc. v. American National Bank & Trust,* 38 F.3d 1429, 1441 (7th Cir. 1994)
26	19841	12/02/05	**$48.65**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust,* 38 F.3d 1429, 1441 (7th Cir. 1994)
27	19837	12/02/05	**$250.06**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust,* 38 F.3d 1429, 1441 (7th Cir. 1994)
29	20188	12/16/05	**$107.75**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust,* 38 F.3d 1429, 1441 (7th Cir. 1994)
30	20213	12/19/05	**$165.03**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust,* 38 F.3d 1429, 1441 (7th Cir. 1994)
33	20597	01/10/06	**$24.25**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust,* 38 F.3d 1429, 1441 (7th Cir. 1994)

34	20636	01/11/06	**$35.31**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
35	20610	01/11/06	**$95.93**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
37	20923	01/23/06	**$556.78**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
38	20938	01/23/06	**$299.58**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
39	20979	01/25/06	**$36.07**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
42	21605	02/16/06	**$106.00**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th

				Cir. 1994)
43	21757	02/22/06	**$33.95**	Defendant's notation on the invoice indicates that copies were made for deposition preparation. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
44	21875	02/26/06	**$3,716.14**	These charges are not provided for in any of the categories set out in 28 U.S.C. 1920 and are unacceptable. This invoice includes charges for electronic data discovery and copies related to document review.
46	21973	03/01/06	**$35.00**	Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994). This invoice includes charges for electronic data discovery and copies related to document review.
47	22008	03/02/06	**$79.33**	Defendant's notation at the botton of this invoice indicates that copies are of hot documents from document production. Extra copies for the convenience of counsel are not considered necessary and therefore are not taxed as costs. *Haraco, Inc. v. American National Bank & Trust*, 38 F.3d 1429, 1441 (7th Cir. 1994)
49	22045	03/03/06	**$10.00**	The charge for custom tabs is an expense not provided for in any of the categories set out in 28 U.S.C. 1920.

C. Conclusion

Defendant's bill of costs includes charges for extra copies for convenience of counsel and charges for Defendant's own database services, all of which are improper costs under 28 U.S.C. 1920. As a result, the Court should sustain Plaintiffs' objections and deny these costs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served *via facsimile* on this the **12th** day of **July, 2006**:

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